IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7360 of 2005

with

CIVIL APPLICATION No.4243 OF 2005

For Approval and Signature:

HON'BLE MR JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAGRUTIBEN BABUBHAI SHAH PRESIDENT - Petitioner(s)

Versus

STATE OF GUAJRAT THR' SECRETARY & 4 - Respondent(s)

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Appearance :

MR Yatin Oza, Sr. Advocate with Mr. RS SANJANWALA for Petitioner No(s).: 1.
MR KB TRIVEDI, ADDL. AG with Ms.Sangita Vishan, AGP for Respondent No(s).: 1.
DS AFF.NOT FILED (N) for Respondent No(s).: 4.
MR HS MUNSHAW for Respondent No(s).: 2.
MR KIRTIDEV R DAVE for Respondent No(s).: 3.
MR TUSHAR MEHTA for Respondent No(s).: 5.
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CORAM :HON'BLE MR JUSTICE AKIL KURESHI

Date : 06/07/2005

ORAL JUDGMENT

In the present petition, the petitioner has challenged the notice dated 21.4.2005 for holding a meeting on 3rd May 2005 for putting to vote a no-confidence motion against the petitioner who is the President of the Kutch District Panchayat The petitioner has also challenged the communication dated 20th April, 2005 from the Government to the District Development Officer requesting the District Development Officer to hold a meeting for considering the no-confidence motion on or before 4th May, 2005.

2. The petitioner was the President of the District Panchayat, Kutch. The present strength of the District Panchayat is of 29 members. 22 members of the District Panchayat signed a notice of no-confidence motion against the petitioner on 30th March, 2005 and addressed the same to the petitioner calling upon the petitioner to convene a meeting of the District Panchayat within a period of 15 days from the date of receipt of the notice i.e. by 13th April, 2005. The petitioner issued a notice on 11.4.05 in which it is stated that the meeting shall be held to consider the no-confidence motion on 9th June, 2005. The District Development Officer wrote a letter dated 12th April, 2005 to the petitioner. In the said letter, the District Development Officer indicated to the petitoiner

that the notice of no-confidence motion was received on 30th March 2005 and the meeting of the Panchayat is required to be called within a period of 15 days from the date of receipt of notice of no-confidence motion. He, therefore, pointed out to the petitioner that the meeting cannot be held at such a distant point of time. The petitioner replied to the District Development Officer vide her letter dated 13.4.2005 contending that as per section 84(4)(a) of the Gujarat Panchayats Act, 1993 (hereinafter to be referred to as the “said Act”), the meeting has to be called within a period of 15 days from the date of receipt of a notice of no-confidence motion. Accordingly, when she has called such meeting by notice dated 11.4.2005, nothing further is required to be done in this regard and that the meeting should be held on 9.6.2005. Since the petitioner did not change the date of proposed meeting, the District Development Officer issued a notice dated 21.4.2005 calling for a Special General Meeting to consider the no-confidence motion. The meeting was scheduled on 3rd May, 2005 at 12 'O clock in the District Panchayat office.

3. The petitioner, therefore, filed the present petition challenging the requisition of meeting on 3rd May, 2005 pursuant to the notice issued by the District Development

Officer on 21.4.05. The learned single Judge of this Court by an order dated 26th April, 2005 issued notice returnable on 4th May 2005, but refused to grant interim relief as prayed for by the petitioner at that stage. It may be noted that the meeting of the District Panchayat was held on 3rd May, 2005 and no-confidence motion against the petitioner was passed when 21 members voted in favour of the motion and 8 members of the Panchayat remained absent.

By an order dated 5th May, 2005, the learned single Judge ordered holding of a fresh meeting for considering the no confidence motion to be held on 13th May 2005. The learned single Judge also put in abeyance the proceedings of the meeting held on 3rd May, 2005 upon recording the statement on behalf of the petitioner that she will not function as President of the District Panchayat until 13th May 2005.

4. The above order of the learned single Judge was carried in appeal before the Division Bench by respondent No.3. The Division Bench while disposing of Letters Patent Appeal No.652 of 2005 set aside the directions issued by the learned single Judge ordering holding of a fresh meeting on 13th May 2005. It was observed that once no confidence motion moved by the members of the

Panchayat has been carried out, there could be no justification for holding of another meeting for consideration of the same no confidence motion.

5. At this stage, the petition was argued before me for final disposal by both sides.

6. Primarily, it is the contention of the petitioner that what is required under section 84(4)(a) of the said Act is that the President should call the meeting of the District Panchayat to discuss the no confidence motion within a period of 15 days from the date of receipt of such a notice from the requisite number of members of the District Panchayat and that actual holding of the meeting thereof need not be within the span of 15 days. It is around this main contention that the entire controversy revolves. It is the case advanced on behalf of the petitioner that what is required under section 84(4)(a) of the said Act is to call the meeting within a period of 15 days from the date of receipt of notice of no confidence motion. It is contended that such notice in the present case was received on 30th March,2005 and the meeting was called by the petitioner on 11th April, 2005 and she had thereby discharged her obligation under the said Act. It is contended that term “call” would not including holding

of the meeting and that such meeting can be held within any reasonable time thereafter. It is, therefore, contended that neither the District Development Officer nor the State Government had any power to give directives to the petitioner to hold the meeting within a period of 15 days of the date of the receipt of notice of no-confidence motion. It is, therefore, contended that the order passed by the State Government on 20th April, 2005 asking the District Development Officer to hold the meeting of the District Panchayat on or before 4th May,2005 was without power and authority. Consequently, it is contended that the actual convening of the meeting by the District Development Officer by his order dated 21.4.05 is also for the same reasons without authority of law. Learned counsel Shri Oza appearing for the petitioner has also submitted that the petitioner called the meeting on 9th June 2005 which cannot be considered as an unreasonably long period of time and the State Government, therefore, in exercise of powers under section 259 of the said Act could not have set aside the order passed by the petitioner, that too, without giving any opportunity of being heard. It is contended that if the petitioner was heard in this behalf, she would have been able to justify the holding of the meeting on 9th June 2005 by producing cogent material on record. In short, it is also the

contention of the learned counsel for the petitioner that the decision taken by the State Government is in violation of principles of natural justice.

6.1 In support of his contention, learned counsel has placed reliance on the decision of this Court in the case of Gopaldas v. Lunavada Nagar Panchayat, 1985(2) GLR 1047. In the said decision, while interpreting the provisions of the Gujarat Panchayats Act, 1961, learned single Judge of this Court had held that under section 48(5)(a) of the Gujarat Panchayats Act, 1961, what is enjoined upon the concerned authority is that a meeting has to be called within 15 days of the receipt of the notice of motion of no-confidence by the Panchayat and it is nowhere provided that such meeting should be actually convened or held within that period of time. I would advert to this decision at some length later.

7. Appearing for the State Government, learned additional Advocate General Shri Kamal Trivedi submitted that what is required under the provisions of section 84(4)(a) of the said Act is actual holding of the meeting by the President within a period of 15 days from the date of receipt of notice of no-confidence motion and simply calling the meeting within the period of 15 days and

proposing to hold the meeting at a distant point of time is not envisaged under the said section. He contended that upon receipt of the report of the District Development Officer, the State Government found that the petitioner has not called the meeting within a reasonable period of time and that therefore, the State Government in exercise of powers under section 259 of the said Act decided to issue directives for holding the meeting. He pointed out that the communication received by the State Government from the District Development Officer dated 16.4.2005 in which the District Development Officer indicated that the meeting should have been called within a period of 15 days and proposed meeting of 9th June 2005 is too late. He indicated that the petitioner has misinterpreted the provisions of section 84(4)(a) of the said Act and since the issue involved interpretation of the statutory provisions, he sought guidance from the Government. It was on the basis of the report that the State Government had directed holding of the meeting on or before 4th May 2005.

7.1 Reliance was placed on the decision of this High Court in the case of P.C.Sharma v. Nagshi Malshi Matang, 1996 (2) GLR 238 wherein the learned single Judge considering the provisions of the Gujarat Municipalities

Act held that the word “call” occurring in section 51(2) of the Municipalities Act would connote “convene” a meeting or to invite members to a meeting to be held on a particular day. The learned Judge, therefore, came to the conclusion that the requirements of section 51(2) calls upon the President of the Municipality to call a meeting on a day not later than 15 days after the presentation of a request would be met with only if the meeting is actually held within a period of 15 days from the date of receipt of the requisition. The learned Judge had the opportunity to consider the earlier decision of this Court in the case of Gopaldas(supra).

8. On behalf of respondent No.3, learned advocate Shri K.R.Dave submitted that the petitioner was not justified in delaying the holding of the meeting when the law requires him to call such a meeting within a period of 15 days from the date of receipt of notice of no-confidence motion. He submitted that the members of the Panchayat having lost confidence in the petitioner as is apparent from the passing of the resolution by an overwhelming majority, the petitioner should not be permitted to hold the position of the President of the District Panchayat.

9. Appearing for respondent No.5, learned advocate Shri

Tushar Mehta also raised similar contentions. He submitted that the true interpretation of the provisions of the said Act and, in particular, section 84(4)(a) thereof would only mean that the requirements of law would be satisfied when a meeting is actually held within the period specified therein and simply calling the meeting within a period of 15 days would not be a sufficient compliance with the provisions of the Act.

9.1 Learned advocate Shri Mehta has also submitted that in the meeting held on 3rd May 2005, 21 members of the Panchayat voted in favour of the no-confidence motion and thus no confidence motion was passed by two-third majority as required under law since the total strength of the Panchayat is 29. He submitted that in view of this development, the technical contentions raised on behalf the petitioner should not be entertained and the writ jurisdiction for such purpose should not be utilised. He relied on a Division Bench judgment of this Court in the case of R.S.Patel v. Nadiad Taluka Panchayat, 1998(3) GLR 2409 wherein the Division Bench observed as follows:

> "Finally, the appellant-petitioner has invoked extraordinary powers of this Court under Art. 226 of the Constitution. When out of 34 members, 31 members were present and all of them voted against the

> appellant and in favour of 'no confidence motion, in our opinion, by not exercising extraordinary powers in favour of the appellant, the learned single Judge has not committed any error of law and the Letters Patent Appeal deserves to be dismissed and is accordingly dismissed."

Decision in the case of Gordhanbhai v. Upleta Municipality, 1988(2) GLR 1234 was brought to the notice of the Court to point out difference between a general meeting of the Panchayat and a special meeting. It was contended that technical defects if at all should not be permitted to subserve the larger interest of justice.

10. From the above recording of facts and rival contentions, it can be seen that the controversy that is required to be decided in the present petition is with respect to the interpretation of section 84(4) of the said Act. Section 84 of the said Act deals with motion of no confidence. Sub-section (1) of section 84 of the said Act provides that any member intending to move a motion of no confidence against the President or Vice-President may give notice thereof in prescribed form to the panchayat and if the notice is supported by such number of members as may be prescribed, the motion may be moved. Under rule 20 of the Panchayats (Procedure) Rules, 1997, it is

provided that every such notice shall be supported by at lest one-half of the total number of members of the panchayat.

Sub-section (2) of section 84 of the said Act provides that if the motion is carried by a majority of not less than two thirds of the total number of the then members of the panchayat, the President or the Vice-President, as the case may be, shall cease to hold the office, after a period of three days from the date on which the motion was carried unless he has resigned earlier. Sub-section (3) of section 84 of the said Act provides that the President or the Vice-President shall not preside over a meeting in which a motion of no-confidence is discussed against him, but he shall have a right to speak or otherwise to take part in the proceedings including the right to vote.

Clause (a) of sub-section (4) of section 84 requires that a meeting of the Panchayat for dealing with a motion of confidence shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat. Clause (b) of sub-section (4) of section 84 provides that if the President of the panchayat fails to call such meeting, the Secretary of the

Panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the Panchayat within a period of 15 days from the date of receipt of the report. In the present case, it is not in dispute that the Development Commissioner is the competent authority under clause (b) of sub-section (4) of section 84 of the said Act. Sub-section (4) of section 84 reads as follows:

> "(4)(a) Notwithstanding anything contained in section 144, a meeting of the panchayat for dealing with a motion of no confidence under this section shall be called within a period of fifteen days from the date on which a notice of such motion is received by the panchayat.
>
> (b) If the President of the panchayat fails to call such meeting, the Secretary to the panchayat shall make a report thereof to the competent authority and thereupon the competent authority shall call a meeting of the panchayat within a period of fifteen days from the date of the receipt of the report."

In exercise of powers conferred under sub-sections (1) and (2) of section 274 of the said act, the Government of Gujarat has framed rules called the Gujarat Panchayats (Procedure) Rules, 1997 (hereinafter to be referred to as the Procedure Rules). Rule 20 of the Procedure Rules

deals with notice of no confidence motion and provides inter alia that any member who desires to move a motion of no confidence against the Sarpanch/President or Up-Sarpanch/Vice-President of the Panchayat shall give notice thereof to the Secretary in Form-A and that every such notice shall be supported by at least one-half of the total number of members of the panchayat. Explanation to rule 20 provides that if the total number of members of a panchayat is odd, then, in calculating the number for the purpose of the rule, a fraction shall be counted as one, for example, if the number of members is thirty one, the member required for supporting the notice of motion that may be moved shall be 16.

11. From the combined reading of the provisions of section 84 of the said Act and rule 20 of the Procedure Rules, it can be seen that the scheme of legislation is that a notice of no-confidence motion against the President of the Vice-President of the District Panchayat can be moved by any member as long as such motion is supported by at least one-half of the total number of members of the Panchayat. Thus, to table a notice of no-confidence motion, what is required is support of 50% of the total number of members of the Panchayat at a particular point of time. However, for the purpose of

carrying such a motion, what is required under sub-section (2) of section 84 is that there must be not less than two-thirds of the total number of the then members of the panchayat. To oust a President or a Vice-President of a Panchayat through passing of no-confidence motion, therefore, what is required is not a simple majority but two-third majority of the total number of members of the panchayat and not just the members of the Panchayat present and voting.

12. Clause (a) of sub-section (4) of section 84 read with clause (b) of sub-section (4) of section 84 casts a duty on the President of the Panchayat to call a meeting within a period of 15 days from the date on which the notice of motion of no confidence is received by the Panchayat. If the President fails in his duty in this regard, the Secretary to the Panchayat is required to make a report to the competent authority and the competent authority thereupon is required to call a meeting of the Panchayat within a period of 15 days from the date of receipt of the report. Rule 20 of the Procedure Rules, provides for the modality of holding the meeting, but does not provide in any manner about the time limit within which such meeting is to be called. Does that mean that the conjoint reading of section 84 of the Act with rule 20 of the Procedure

Rules shows that the President is required to call a meeting within a period of 15 days and can hold such a meeting at any point of time thereafter ? It is true that in sub-section (1) of section 77 of the said Act, the Legislature has provided that on the constitution of the District Panchayat or on its reconstitution under section 13 or under any other provisions of the Act, there shall be called the first meeting for the election of its President and its Vice-President from amongst its elected members. Whereas under sub-section (4) of section 77, the Legislature has provided that the meeting shall be held on such day within four weeks from the date on which the names of members elected at the General election are published under section 15 as may be fixed by the competent authority. In section 77 of the said Act, therefore, apparently, the term “call” has been used in juxtaposition to term “hold” the meeting and both terms have been assigned different meanings by the Legislature. Position of section 84 of the said Act read with rule 20 of the Procedure Rules is somewhat different. Under the provisions of sub-section (4) of section 84 of the said Act, the President of the Panchayat is required to call a meeting within fifteen days from the date of receipt of notice of no-confidence motion by the Panchayat. If he fails in discharge of his duties, upon a report to be made

by the Secretary, the competent authority is required to call such a meeting within a period of 15 days from the date of receipt of such a report. One may not lose sight of the fact that the meeting which the President is required to call is for discussing the no confidence motion against the President or the Vice-President. Thus the President has to choose the date of the meeting of the Panchayat to consider a no-confidence motion against himself. Would it be correct interpretation of the said provisions contained in section 84 to accept that calling a meeting within 15 days by issuing a notice of requisition would be sufficient compliance of the requirement of law and that the actual meeting may be held at any distant point of time ? Accepting any such interpretation would lead to a situation where the President of the Panchayat may issue a notice calling the meeting within the requisite period of 15 days, but may actually convene the meeting at a distant point of time and thereby argue that once he has discharged his duty enjoined upon him by the Legislature, even the Competent Authority would be divested of its power to convene a meeting at an earlier point of time. Even to move a notice of no-confidence motion, one-half number of members of the Panchayat need to sign the requisition before the same can be placed before the Panchayat. Thus when, prima

facie, at least half of the number of members of the Panchayat lose confidence in the President or the Vice-President, such a motion of no-confidence is required to be considered by holding a meeting of the Panchayat. Such requisition cannot be delayed indefinitely blocking the democratic process of putting to vote the no-confidence of motion. Under rule 20 of the Procedure Rules, as noted earlier, no time limit has been indicated for holding of the meeting to consider the no-confidence motion. The intention of the Legislature, therefore, as emanating from the provisions of sub-section (4) of section 84 is to require the President of the Panchayat to actually hold the meeting within a period of 15 days from the date of receipt of such a notice by the panchayat. If he fails in discharge of his duties, the Secretary of the Panchayat has to make a report thereof to the competent authority and the competent authority upon receipt of such a report has to call the meeting of the Panchayat within a period of 15 days of the receipt of the report.

13. One may also notice that section 84(4)(a) provides that notwithstanding anything contained in section 144, meeting of the Panchayat dealing with motion of no confidence shall be called within 15 days from receipt of such motion by the Panchayat. Section 144 of the Act

provides that the meeting of a district panchayat shall be held normally every three months. President of the Panchayat however may for specified reasons upon request of not less than one third of the members call the meeting at any other time. Thus under section 84(4)(a) of the said Act special provisions are made for meetings of the Panchayat to deal with no confidence motion. The intention of the Legislature could not have been to provide for calling of the meeting by issuance of notice thereof immediately but to permit actual holding thereof at any time thereafter without providing of any outer limit.

14. In the case of Gopaldas v. Lunawada Nagar Panchayat (supra), the learned Judge was interpreting the provisions of the Gujarat Panchayats Act, 1961. Though the language used in clause (a) of sub-section (5) of section 48 of the Gujarat Panchayats Act, 1961 is somewhat similar to the language used by the Legislature in sub-section (4) of section 84 of the said Act, I find that there are subtle differences in the legislative scheme of both the Acts and the Rules made thereunder. For example, under rule 18 of the Gujarat gram and Nagar Panchayats (Procedure) Rules 1963, it was provided that a notice which has been given under sub-rule (1) of rule 17 (for no confidence motion)

shall be considered by the panchayat on the next ordinary meeting if it is held not earlier than the expiry of seven days and not later than the expiry of thirty days after the date of receipt of the notice by the Secretary. It is further provided that if an ordinary meeting of the Panchayat is not due at any time during the periiod specified in sub-rule (1), a special meeting of the panchayat shall be convened during that period for considering the motion. Rule 18 of the Gujarat Gram and Nagar Panchayats (Procedure) Rules 1963 reads as follows:-

> “18(1) A motion of which a notice has been given under sub-rule (1) of rule 17 shall be considered by the panchayat at the next ordinary meeting if it is to be held not earlier than the expiry of seven days and not later than the expiry of thirty days after the date of receipt of the notice by the Secretary.
>
> (2) If an ordinary meeting of the panchayat is not due at any time during the period specified in sub-rule (1) a special meeting of the panchayat shall be convened during that period for considering the motion.”

It can thus be seen that under the old rules of procedure, a motion of no-confidence was required to be considered by the Panchayat at an ordinary meeting if it is to be held not less than seven days and not more than30

days after the date of receipt of the notice by the Secretary. In case such an ordinary meeting was not due during any such time as mentioned above, a special meeting of the panchayat was required to be convened during that period. The combined effect of the provisions of the Gujarat Panchayats Act 1961 and the Procedure Rules made thereunder was that a meeting of no confidence motion was required to be called within a period of 15 days from the date of receipt of such a notice and the actual meeting was required to be held not later than 30 days from the date of receipt of the notice. In the present case, in the Procedure Rules of 1993, there is no such indication of outer limit for holding a meeting of no-confidence motion and the intention of the Legislature has to be gathered and judged from the language used in section 84 of the said Act. On account of this vital difference, I find that the ratio laid down by the learned single Judge in the case of Gopaldas (supra) would not provide for a straight-jacket formula for being applied in the present case.

One may also note that in the said decision of Gopaldas (supra), the President of the Panchayat who had called the meeting within a period of 15 days and had also actually held the meeting within a period of 30 days from

the date of receipt of the notice of no confidence motion was urging before this Court that meeting having been held beyond the period of 15 days from the date of receipt of the notice, the entire proceedings conducted pursuant to such a meeting should be nullified. Indirectly, therefore, the President who had himself called the meeting was questioning its validity when eventually the no confidence motion was passed against him during such meeting.

15. In the decision of Madhav Rao Scindia v. Union of India, AIR 1971 SC 530, in para 134, the Hon'ble Supreme Court observed that the meaning of a word or expression used in the Constitution often is coloured by the context in which it occurs; the simpler and more common the word or expression, the more meanings and shades of meanings it has. It is the duty of the Court to determine in what particular meaning and particular shade of meaning the word or expression was used by the Constitution makers and in discharging the duty the Court will take into account the context in which it occurs, the object to serve which it was used, its collocation, the general congruity with the concept or object it was intended to articulate and a host of other considerations. Above all, the Court will avoid repugnancy with accepted norms of justice and

reason.

15.1 In the case of Reema Aggarwal v. Aupam, AIR 2004 SC 1418, the Hon'ble Supreme Court made the following observations:-

> “19. In Chief Justice of A.P. v. L.V.A.Dixitulu (1979(2) SCC 34) this Court observed :
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> “The primary principle of interpretation is that a constitutional or statutory provision should be construed “according to the intent of they that made it (Coke). Normally, such intent is gathered from the language of the provision. If the language or the phraseology employed by the legislation is precise and plain and thus by itself proclaims the legislative intent in unequivocal terms, the same must be given effect to, regardless of the consequences that may follow. But if the words used in the provision are imprecise, protean or evocative or can reasonably bear meanings more than one, the rule of strict grammatical construction ceases to be a sure guide to reach at the real legislative intent. In such a case, in order to ascertain the true meaning of the terms and phrases employed, it is legitimate for the Court to go beyond the arid literal confines of the provision and to call in aid other well recognised rules of construction, such as its legislative history, the basic scheme and framework of the statute as a whole, each portion throwing light, on the rest, the purpose of the legislation, the object sought to be achieved, and

the consequences that may flow from the adoption of one in preference to the other possible interpretation.

20. In Kehar Singh v. State (Delhi Admn.)(AIR 1988 SC 1883), this Court held:

"..... But, if the words are ambiguous, uncertain or any doubt arises as to the terms employed, we deem it as our paramount duty to put upon the language of the legislature rational meaning. We then examine every word, every section and every provision. We examine the Act as a whole. We examine the necessity which gave rise to the Act. We look at the mischiefs which the legislature intended to redress. We look at the whole situation and not just one-to-one relation. We will not consider any provision out of the framework of the statute. We will not view the provisions as abstract principles separated from the motive force behind. We will consider the provisions in the circumstances to which they owe their origin. We will consider the provisions to ensure coherence and consistency within the law as a whole and to avoid undesirable consequences."

21. In District Mining Officer v. Tata Iron and Steel Co. (JT 2001 (6) SC 183), this Court stated:

"..... The legislation is primarily directed to the problems before the legislature based on information derived from past and present experience. It may also be designed by use of general words to cover similar problems arising in future. But, from the very nature of thing, it is impossible to anticipate fully in the varied situations arising in future in which the application of the legislation in

hand may be called for the words chosen to communicate such indefinite referents are bound to be in many cases, lacking in charity and precision and thus giving rise to controversial questions of construction. The process of construction combines both literal and purposive approaches. In other words, the legislative intention i.e. the true or legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed."

22. The suppression of mischief rule made immortal in Heydon's case (3 Co Rep 7a 76ER 637) can be pressed into service. With a view to suppress the mischief which would have surfaced had the literal rule been allowed to cover the field, the Heydon's Rule has been applied by this Court in a number of cases, e.g. Bengal Immunity Co. Ltd. v. State of Bihar and others (AIR 1955 SC 661). Goodyear India Ltd. v. State of Haryana and another (AIR 1990 SC 781), P.E.K. Kalliani Amma and others v. K. Devi and others (AIR 1996 SC 1963) and Ameer Trading Corporation Ltd. v. Shapporji Data Processing Ltd. (2003 (8) Supreme Court 634)."

16. Keeping the above judicial pronouncements in mind and referring to the statutory position in the present case, it is not possible to give a strict and literal meaning to the provisions of section 84(4) of the Act and in particular the term "call" used in the said sub-section

for the purpose of calling the meeting of no confidence motion. The Legislative intent has to be gathered from the attending provisions and the entire scheme of the Act with special focus on the provisions contained for convening a meeting for considering a no confidence motion when called upon to do by at least one-half of the members of the Panchayat. In that sense, as noted earlier, strict and rigid interpretation of the term “call” would lead to a situation where the President of the Panchayat against whom such a motion is sought to be moved may issue a notice calling such a meeting within the prescribed time of 15 days, but may fix the date of actual meeting after a distant point of time. Such a situation is neither envisaged by the Legislature nor would be conducive of clean administration of panchayat through democratic process. Such a mischief cannot be permitted by adopting strict interpretation and, in my mind, there is no doubt that the Legislature intended that under sub-section (4) of section 84 of the said Act what is required is that the President should call and hold the meeting within a period of 15 days from the date of receipt of notice thereof from the requisite number of members of the Panchayat.

17. This brings me to the second aspect of the matter,

namely, whether the order passed by the State Government on 20th April 2005 was valid and legal. The entire situation may be viewed in the background of the facts emerging in the present case. The District Development Officer noting that the petitioner had not scheduled the meeting of the Panchayat within a period of 15 days and had actually decided to hold the meeting more than two months from the date of receipt of the notice of no-confidence motion, sought guidance from the State Government regarding the correction position of law since he found that the meeting should have been actually held within a period of fifteen days. The State Government in purported exercise of power under section 259 of the said Act directed the District Development Officer to convene a meeting on or before 4th May 2005. In the conclusion that I have reached regarding the interpretation of sub-section (4) of section 84 of the said Act, it was the duty and responsibility of the District Development Officer to make a report and to ensure holding of a meeting within 15 days thereof. The meeting was actually convened by the District Development Officer, of course, under the guidance or directive of the State Government. In strict sense, perhaps, it can be argued that the Competent Authority himself should have taken a decision and not upon directives by the State Government. The fact that

under section 259 of the said Act, the Government has the power to call for and examine legality or propriety of any order passed by any officer of the Panchayat and to revise and modify the order is not in doubt. The question, therefore is, should the proceedings of the meeting which were actually held on 3rd May 2005 be annulled on account of such a technicality? As noted earlier, out of 29 members of the Panchayat, 21 members remained present and voted in favour of the no-confidence motion. In exercise of power under Article 226 of the Constitution of India, I do not think that this is a fit case in which discretionary power of this Court should be exercised to strike down the entire proceedings and to order reconvening of the meeting.

18. In the case of Roshan Deen v. Preeti Lal, AIR 2002 SC 33, the Hon'ble Supreme Court observed that the very purpose of constitutional powers being conferred on the High Court is that no man should be subjected to injustice by violating the law. The look out of the High Court is therefore, not merely to pick out any error of law through an academic angle, but to see whether injustice has resulted on account of any erroneous interpretation of law. If justice became the byproduct of an erroneous view of law, the High Court is not expected to erase such

justice in the name of correcting the error of law. As noted earlier, the no confidence motion came to be passed by an overwhelming majority of 21 persons voting for and none against. Of course, eight members chose to remain absent. The number of members present and voting would exceed two-third majority of the total strength of the panchayat as required under the law.

19. In view of this discussion, I do not find any reason to interfere in the present petition and the same is therefore rejected. Notice discharged. Interim relief vacated.

20. At the request of the learned advocate for the petitioner, while keeping this order in abeyance for a period of two weeks, it is further provided that the interim direction granted earlier in favour of the petitioner shall continue for a period of two weeks from today.

21. In view of the order passed in the main matter, the Civil Application does not survive and the same is disposed of.

(Akil Kureshi, J.)

(vjn)